

# **Special Terms and Conditions of Approval**

## **CENTERS FOR MEDICARE & MEDICAID SERVICES**

**NUMBER:** 11-W-00191/1

**TITLE:** Vermont Long-Term Care Plan 1115 Demonstration

**AWARDEE:** Vermont Agency of Human Services

The following are Special Terms and Conditions for the award of the Long Term Care Plan section 1115 demonstration request submitted on October 7, 2003. The Special Terms and Conditions are arranged in eight subject areas: General Program Requirements, General Reporting Requirements, Legislation, Assurances, Operational Protocol, and Attachments regarding General Financial Requirements, Monitoring Budget Neutrality, and a Summary Schedule of Reporting Items.

Letters, documents, reports, or other materials that are submitted for review or approval will be sent to the Centers for Medicare and Medicaid Services (CMS) Central Office demonstration project officer and the State representative in the CMS Regional Office.

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## **I. GENERAL PROGRAM REQUIREMENTS**

**1. Extension or Phase-out Plan.** The State will discuss demonstration extension plans with CMS at least 18 months prior to demonstration expiration, and requests for extensions are due to CMS no later than 12 months prior to the expiration of the demonstration. If the State does not request an extension, it must submit a phase-out plan, which includes provisions for cessation of enrollment, to CMS no later than 12 months prior to the expiration of the demonstration. The phase-out plan must be submitted to CMS to review and consider for approval.

**2. State Right to Amend Demonstration.** The State may amend this demonstration in whole or in part at any time before the date of expiration. The State will promptly notify CMS in writing of the reasons for amending the demonstration. Any modifications by the State to the Long-Term Care Plan demonstration must be submitted in writing and are subject to prior approval by CMS.

**3. CMS Right to Suspend or Preclude the Demonstration Implementation.** The CMS may suspend or preclude Federal Financial Participation (FFP) for State demonstration implementation and/or service provision to demonstration enrollees whenever it determines that the State has materially failed to comply with the terms of the project, and/or if the implementation of the project does not further the goals of the Medicaid program.

**4. State Right to Terminate or Suspend Demonstration.** The State may suspend or terminate this demonstration in whole or in part at any time before the date of expiration. The State will promptly notify CMS in writing of the reasons for suspension or termination, together with the effective date. If the demonstration project is terminated by the State, CMS will be liable for only normal closeout costs. The State will submit a phase-out plan for CMS to review and consider for approval.

**5. CMS Right to Terminate or Suspend the Demonstration Operation.** During demonstration operation, CMS may suspend or terminate FFP for any project in whole or in part at any time before the date of expiration, whenever it determines that the State has materially failed to comply with any of the terms of the project. The CMS will promptly notify the State in writing of the determination and the reasons for the suspension or termination. The effective date of such action shall not be fewer than 45 days from the date of notice. The State waives none of its rights to challenge CMS' finding that the State materially failed to comply. The CMS reserves the right to withhold waivers and authority for pending FFP for costs not otherwise matchable or to withdraw waivers or authority for costs not otherwise matchable at any time if it determines, after good faith consultation with the State, that granting or continuing the waivers or authority for costs not otherwise matchable would no longer be in the public interest. If the waiver or authority for costs not otherwise matchable is withdrawn, CMS will be liable only for normal closeout costs.

## II. GENERAL REPORTING REQUIREMENTS

(Attachment C provides a summary of the frequency of required reporting items)

**6. Monthly Progress Calls.** During the first 6 months of operation, CMS and the State will hold monthly calls to discuss demonstration progress. After 6 months of operation, CMS and the State will determine the appropriate frequency of progress calls.

**7. Quarterly & Annual Progress Reports.** The State will submit quarterly progress reports that are due 60 days after the end of each quarter. The fourth quarterly report of every calendar year will include an overview of the past year as well as the last quarter, and will serve as the annual progress report. The CMS reserves the right to request the annual report in draft. The reports will address, at a minimum:

- a discussion of events occurring during the quarter (including enrollment numbers, lessons learned, and a summary of expenditures);
- a discussion of the State's progress in completing Quality Assurance and Quality Improvement Plan activities;
- notable accomplishments; and
- problems/issues that were identified and how they were solved.

**8. Final Demonstration and Evaluation Report.** At the end of the demonstration period, a draft final report will be submitted to CMS for comments. CMS' comments shall be taken into consideration by the State for incorporation into the final report. The final report with CMS' comments is due no later than 180 days after the termination of the project.

### III. LEGISLATION

**9. Changes in the Enforcement of Laws, Regulations, and Policy Statements.** All requirements of the Medicaid program expressed in Federal laws, regulations, and policy statements, not expressly waived or identified as not applicable in the award letter, will apply to the demonstration. To the extent that changes in the enforcement of such laws, regulations, and policy statements would have affected State spending in the absence of the demonstration in ways not explicitly anticipated in this agreement, CMS will incorporate such effects into a modified budget limit for the demonstration. The modified budget limit would be effective upon enforcement of the law, regulation, or policy statement.

If the law, regulation, or policy statement cannot be linked specifically with program components that are or are not affected by the demonstration (e.g., all disallowances involving provider taxes or donations), the effect of enforcement on the State's budget limit will be proportional to the size of the demonstration in comparison to the State's entire Medicaid program (as measured in aggregate medical assistance payments).

**10. Changes in Federal Law Affecting Medicaid.** The State will, within the time frame specified in law, come into compliance with any changes in Federal law affecting the Medicaid program that occur after the demonstration award date. To the extent that a change in Federal law, which does not exempt State section 1115 demonstrations, would affect State Medicaid spending in the absence of the demonstration, CMS will incorporate such changes into a modified budget limit for the demonstration. The modified budget limit will be effective upon implementation of the change in Federal law, as specified in law.

If the new law cannot be linked specifically with program components that are or are not affected by the demonstration (e.g., laws affecting sources of Medicaid funding), the State will submit its methodology to CMS for complying with the change in law. If the methodology is consistent with Federal law and in accordance with Federal projections of the budgetary effects of the new law in the State, CMS would approve the methodology. Should CMS and the State, working in good faith to ensure State flexibility, fail to develop within 90 days a methodology to revise the without-waiver baseline that is consistent with Federal law and in accordance with Federal budgetary projections, a reduction in Federal payments will be made according to the method applied in non-demonstration states.

**11. Amending the Demonstration.** The State may submit an amendment for CMS consideration requesting exemption from changes in law occurring after the demonstration award date. The cost to the Federal Government of such an amendment must be offset to ensure that total projected expenditures under a modified demonstration program do not exceed projected expenditures in the absence of the demonstration (assuming full compliance with the change in law).

## IV. ASSURANCES

Acceptance of the Special Terms and Conditions of Approval constitutes the State's assurance of the following:

**12. Preparation and Approval of Operational Protocol.** Prior to service delivery under this demonstration, an Operational Protocol document, which represents all policies and operating procedures applicable to this demonstration, will be prepared by the State and approved by CMS. The State acknowledges that CMS reserves the right not to approve an Operational Protocol in the event that it does not comply with the Special Terms and Conditions of Approval. *Requirements and required contents of the Operational Protocol are outlined in Section V of these Special Terms and Conditions.*

**13. Person-Centered Planning Process.** The State agrees to use a person-centered planning process to identify participants' and applicants' long term care needs and the resources available to meet these needs, and to provide access to additional care options, including the choice to use spouse caregivers, and to access a prospective monthly cash payment.

**14. Adequacy of Infrastructure.** Adequate resources for implementation, monitoring activities, and compliance to the Special Terms and Conditions of the demonstration will be provided by the State. It is the goal of the demonstration to serve more people, not fewer, by allowing and encouraging more home-based services, thus freeing up funds to serve more people. Through the State's 10 year plan, each year the State will add resources to the long term care system equivalent to a minimum of 100 additional Home and Community Based 'slots'. This indicates recognition would be required in order to accommodate a growing population.

**15. Changes Resulting from Implementation of the Medicare Modernization Act (MMA).** The State agrees to a modified budget limit developed by CMS that will result from implementation of the MMA. The modified budget limit would be effective upon enforcement of the law, regulation, or policy statement. The MMA makes the Part D Drug Benefit effective on January 1, 2006.

**16. Changes to Level of Care Criteria.** The State agrees to submit, for CMS review and approval, any current or proposed assessment instruments, policies, and procedures for determining the level of care for demonstration participants and applicants.

**17. Maintenance of Effort.** The State agrees that annual expenditures for each year of the demonstration shall be at least the same level of total combined Medicaid expenditures for nursing home services and for the two 1915(c) Waivers in place in Vermont during the base year for the demonstration, SFY 2003. This total figure is \$120,236,519 per year. The State also agrees that the number of individuals fully served under the demonstration shall not decrease from the base year for the demonstration, SFY 2003. This total figure is 3201 participants per year.

**18. Participant/Applicant Satisfaction and Waiting List Monitoring.** Participants and applicants on waiting lists will be included in demonstration Beneficiary Surveys, Quality Assurance/Quality Improvement activities and evaluation activities. The State agrees to report on the status of the waiting list and the status of participant/applicant satisfaction surveys, Quality Assurance/Quality Improvement activities and evaluation activities during monthly progress calls between CMS and the State and in quarterly/annual reports.

**19. Prioritization of Enrollment.** The State is reserving a minimum of \$1.7 million per year for provision of services to the Moderate Need group. Medicaid eligibles in the Moderate Need group must be served prior to expansion eligibles.

Should a waiting list for long-term care services develop, the State agrees that individuals entitled to long-term care services will be enrolled in the long-term care program before persons with lighter care needs, according to a prioritization process described in the Operational Protocol. Specifically, participants receiving services currently will continue to receive services before participants and applicants in the Highest Need group; participants and applicants in the Highest Need group will receive services before participants and applicants in the High Need group; and participants and applicants in the High Need group will receive services before participants and applicants in the Moderate Need group.

**20. Restricting Choice of Providers.** The State must provide access to nursing facility services to all Medicaid-eligible participants who meet the entitlement criteria established under the demonstration and desire nursing facility placement. If the State pursues selective contracting, the State must submit, for CMS review and approval, a description of the process for selecting providers of nursing facility services and allocating nursing facility beds. The State must demonstrate that the process used to select providers of nursing facility services and to allocate Medicaid reimbursed, nursing facility beds is consistent with the requirements of section 1923 and is consistent with access, quality, and efficient and economic provision of care and services for all participants needing nursing facility services including special regard to access to services for individuals with complex long-term care needs.

CMS must review and approve readiness, before the State implements the selective contracting process. The CMS review will include, but is not limited to, a review of provider contracts, State legislative provisions, the public notice process, interviews with nursing facility providers, long-term care ombudsmen, Area Agencies on Aging, and participant advocates.

**21. Eligibility/Enrollment.** The State agrees to submit, for CMS review and approval, a description of the population of individuals eligible for the demonstration (and eligibility exclusions), including plans for population phase-in.

The State agrees to continue to provide nursing facility services and Home and Community-Based Services (HCBS) to participants receiving these services prior to implementation of the demonstration, in nursing facilities and through the 1915(c) Aged and Disabled and Enhanced Residential Care Home and Community-Based Services waiver programs. Participants will continue to maintain pre-demonstration service options if their level of care (using pre-demonstration criteria) remains the same or increases and their financial eligibility is maintained.

**22. Self-Directed Supports.** The State agrees to provide adequate resources to support participants in directing their own care. The support assures, but is not limited to, participants' compliance with laws pertaining to employer responsibilities and provision for back-up attendants as needs arise. The State agrees to make background checks on employees available to participants, upon request, and provide guidance to participants on the results of checks.

In addition, the State will provide adequate resources to support participants in securing and managing their personal care service providers and hours, including but not limited to the following self-directed supports:

**A. Self-Directed Supports**

1. A fiscal agent/intermediary is available to all participants;
2. Assistance in locating a provider;
3. An assurance of the right to hire, fire and supervise the work of their providers; and,
4. Consultants are available to participants to conduct assessments and annual reassessments, inform participants of their rights and responsibilities, monitor the quality of each participant's services, assist participants with learning their roles and responsibilities as "employer" and to understand the roles and responsibilities of their providers, act as points of contact if participants have questions or their care providers are unavailable, oversee the funds provided to participants, ensure that service allocations and services provided are consistent with the assessment and care plan, and make referrals to other community resources when participants' care needs exceed the scope of services or hours permitted under the demonstration program.

**B. In addition to the above supports, the State agrees to the following:**

- 1. Assistance of a Proxy.** This demonstration is designed to assist individuals who are capable of directing their own care. Individuals who are not capable of directing their own care will not be deliberately excluded from participating in the demonstration. Specifically, persons who require the assistance of others for care planning, or for whom authorization for care must be obtained from a proxy (e.g., a parent or legal guardian/representative) will not be excluded from program participation.
- 2. Supplant Services.** Cash payments provided under this demonstration program do not supplant informal care services that have routinely and previously been available to project participants. Such ongoing informal care services will be identified as a part of each participant's care plan.

**23. Independent Advocate.**

- An independent advocate or advocacy system is available to all participants and applicants in the demonstration program, including access to area agency on aging advocacy, legal services and the long-term care ombudsman.
- The Medicaid Fair Hearing process is available to all demonstration participants and applicants.

**24. Quality Assurance and Quality Improvement (QA/QI).** The Vermont Agency of Human Services will design and implement an overall QA/QI plan that effectively assures the health and welfare of program participants and applicants and continuous improvement in the demonstration program. The QA/QI system will be phased in and operational no later than three months after the start date of the demonstration. The State will provide a timeline for



implementing the plan. The QA/QI plan will be consistent with the CMS Home and Community-Based Services Quality Framework and, at a minimum, include the following:

- A. A plan for discovery, remediation, and improvement; and
- B. A protocol for reviews, periodic home visits, and data collection; and plans to monitor implementation of the QA/QI plan.

**25. Cost sharing/Co-payments.** State agrees to maintain State Plan cost-sharing and co-payment provisions for the Highest Need and High Need groups. Should cost-sharing and co-payments be instituted for the Moderate Need (expansion group), the annual aggregate cost-sharing may not exceed five percent of annual household income.

**26. Notification to Program Participants.** The State agrees to notify demonstration participants, including current eligibles receiving services through 1915(c) programs and nursing facility services, regarding eligibility changes to be implemented under the Long-Term Care Plan demonstration, including, but not limited to, their enrollment into a section 1115 research and demonstration program. The notification to participants must meet the provisions of 42 CFR 431.210. Participants will be notified no later than 30 days prior to their transition to the Long Term Care Plan demonstration. The State agrees to notify CMS 30 days in advance, before terminating the 1915(c) programs, in accordance with the requirements of 42 CFR 441.307.

**27. Presumptive Eligibility.** The State agrees to maintain current financial responsibility for the cost of services for participants found to be ineligible for Medicaid services and agrees not to request Federal financial participation for these expenditures.

**28. Room and Board.** The State agrees to submit only support services claims for Enhanced Residential Care and assures CMS that room and board will not be billed.

**29. Reporting on Participants Receiving Community Rehabilitation and Treatment (CRT) Services.** The State agrees to develop systems to track and report expenditures for CRT Services to participants with severe and persistent mental illness. Expenditures for CRT mental health services will be included under the budget neutrality agreement for the Vermont Health Access Plan section 1115 demonstration. All other expenditures will be included under the budget neutrality agreement for the Long-Term Care Plan section 1115 demonstration for participants who are also enrolled in the Long-Term Care demonstration.

**30. Evaluation and Monitoring Design.** The State will conduct an evaluation of the impact of the Long-Term Care demonstration on participants and applicants. The State acknowledges the importance to CMS of an evaluation to the operation, quality improvement and possible modifications to innovative demonstration initiatives. The evaluation will, at a minimum:

- Identify a set of measures that may be the best predictors of individuals at risk for institutional placement;
- Determine the cost effectiveness of the overall long-term care program to furnish a comprehensive package of home and community-based services to individuals, based on their specific needs, as compared to the current system;
- Assess the effect of the demonstration on delaying the need for nursing facility care;
- Determine the effect of the demonstration and its policies on participant satisfaction;

- Determine the effect of the demonstration and its policies on the array and amount of services available in the community;
- Determine the effect of the demonstration and its policies on nursing facility census and acuity levels; and,
- Determine the effect of the demonstration on the level of knowledge in the community with respect to long-term care resources, including Medicaid.

**31. Independent Evaluation.** The State agrees to fully cooperate with Federal evaluators and their contractors' efforts to conduct an independent Federally-funded evaluation of the demonstration program.

**32. Budget Neutrality.** The cost of services provided during the demonstration will be no more than 100 percent of the cost to provide Medicaid services without the demonstration.

**33. Public Notice Requirements.** The demonstration complies with public notice requirements as published in the *Federal Register*, Vol. 59, No. 186 dated September 29, 1994, (Document number 94-23960) and Centers for Medicare & Medicaid Services requirements regarding Native American Tribe consultation.

## V. OPERATIONAL PROTOCOL

**34. Operational Protocol Timelines and Requirements.** The Operational Protocol will be submitted to CMS no later than 60 days prior to program implementation. CMS will respond within 30 days of receipt of the protocol regarding any issues or areas for which clarification is needed in order to fulfill the Special Terms and Conditions, those issues being necessary to approve the Operational Protocol.

Subsequent changes to the demonstration program and the Operational Protocol that are the result of major changes in policy or operating procedures, including changes to cost-sharing amounts or subsidy amounts, including adjustments for inflation, will be submitted for review by CMS. The State will submit a request to CMS for these changes no later than 45 days prior to the date of implementation of the change(s).

### **35. Required Contents of Operational Protocol:**

**a. Organization and Structural Administration.** A description of the organizational and structural administration that will be in place to implement, monitor, and operate the demonstration, and the tasks each organizational component will perform. Include details such as a timeline for initiating tasks prior to and post implementation, including steps, estimated time of completion, and who will be responsible for the tasks.

**b. Reporting Items.** A description of the content and frequency of each of the reporting items as listed in the Special Terms and Conditions Section II and Attachments A and C of this document.

**c. Implementation of MMA Drug Benefit.** A description of how demonstration participants will be identified who are eligible for the MMA Drug Benefit and how participants will be informed about the benefit. In addition, the State agrees to provide a description and timeline for adjusting the financial reporting system to reflect changes in the treatment of pharmacy charges for participants who are eligible for both Medicare and Medicaid.

**d. Reporting on Participants Receiving CRT Services.** A description of the systems for tracking and reporting on expenditures for Community Rehabilitation and Treatment Services for participants with severe and persistent mental illness. Describe how expenditures for CRT will be included under the budget neutrality agreement for the Vermont Health Access Plan section 1115 demonstration. All other expenditures will be included under the budget neutrality agreement for the Long-Term Care Plan section 1115 demonstration for participants who are also enrolled in the Long-Term Care demonstration.

**e. Reporting on Participants Who Would be Included in PACE Vermont.** A description of the plan for implementing the Program of All-inclusive Care for the Elderly (PACE) including a description of how program expenditures would be reported within the Long-Term Care Plan demonstration. A separate PACE provider application will be submitted to CMS for review and approval per statute and regulations.

**f. Medicaid Fair Hearing.** The State agrees to submit, for CMS review and approval, a protocol for resolving disagreements between the State and participants and applicants regarding eligibility for demonstration services. In addition, the State agrees to inform all demonstration participants and applicants about the Medicaid Fair Hearing process. If Fair Hearing policies differ from non-demonstration Medicaid, then provide a description of the policies that will be in place in the demonstration and how the process will be monitored. A plan for informing participants and applicants about the steps the Medicaid Fair Hearing policy.

**g. Outreach/Marketing/Education.** A description of the State's outreach, marketing, education, staff training strategy/schedule. NOTE: *All marketing materials must be reviewed and approved by CMS prior to use.* Include in the description:

- information that will be communicated to enrollees, participating providers, and State outreach/education/intake staff (such as social services workers and caseworkers, or contracted parties) regarding changes to clinical and financial eligibility standards;
- types of media to be used;
- specific geographical areas to be targeted for the Cash & Counseling Pilot and Adult Family Care program including the schedules for the public and participant information campaigns associated with the launching and continued program publicity;
- locations where such information will be disseminated;
- staff training schedules, schedules for State forums or seminars to educate the public;
- training materials for intake and eligibility staff regarding changes in determining eligibility for demonstration groups that include but is not limited to changes in resource limits;
- training materials, curriculum, and training schedule for State staff, case management agencies and Area Agencies on Aging regarding recruiting, identifying, and enrolling individuals, with special consideration to individuals who may qualify for the Moderate and High Need groups;
- policies and procedures regarding ongoing training for current and new staff following the initiation of the program;
- the availability of bilingual materials/interpretation services and services for individuals with special needs;
- training of consumers, advocates and the members of the public on the concepts of the demonstration.

**h. Notification to Program Participants.** A plan that includes a timeline for notifying demonstration participants, including current eligibles receiving services through 1915(c) programs and nursing facility services, regarding eligibility changes to be implemented under the Long-Term Care Plan demonstration, including, but not limited to, their enrollment into a Section 1115 research and demonstration program.

**i. Eligibility/Enrollment.** A description of the population of individuals eligible for the demonstration (and eligibility exclusions), including plans for population phase-in and 1915(c) program termination. Describe the processes for the following and include the organization responsible for each of the processes:

- determining eligibility including methods for applying income and resource rules for the categorically and medically needy with limits up to \$10,000, for individuals who are single and own their own home, and who select home-based services in lieu of institutional services or other residential care services;
- phasing-in changes in resource limits over the course of the demonstration and parameters for determining when the limits would increase, e.g., from \$2,000 to \$3,000, from \$3,000 to \$5,000 and from \$5,000 to \$10,000;
- determining income and resource disregards for the Moderate Need, expansion population;
- determining the clinical eligibility of individuals applying for services in the Moderate Need Group;
- determining participants' and applicants' level of care including assessment instruments, policies, and procedures;
- including mental status information in developing and carrying out service/treatment plans;
- conducting intake, assessment, enrollment, and disenrollment;
- conducting annual re-determinations of eligibility;
- determining the existence and scope of a demonstration applicant's existing third party liability;
- implementing consumer-directed services including the number of participants to be served, service area, and expansion projections; and
- allocating a cash allotment to participants for self-directing services should this benefit prove feasible as a result of a pilot-program.

**j. Enrollment Limit.** Description of the enrollment limit and any process for revising the limit. Detailed description of how a waiting list will operate. Include any pertinent documentation or instructions for the waiting list as an attachment to the Protocol document. Include how individuals are selected from the waiting list to enter the program, how the list is maintained, the periodicity for assessing the changing needs of individuals on the waiting list, how the potential participants and applicants will be informed of their placement and standing on the list, how often they will be informed of their standing, and how the intake workers will be able to access and verify an individual's standing on the waiting list.

**k. Restricting Providers.** A description of the process for selecting providers of nursing facility services and allocating nursing facility beds. Describe how the process and criteria used to select providers of nursing facility services and to allocate Medicaid- reimbursed, nursing facility beds is consistent with the requirements of section 1923 and is consistent with access, quality, and efficient and economic provision of care and services. Provide a timeline for implementing the selection process including pre- and post-implementation activities.

**l. Benefits.** A complete description of Medicaid services covered under the demonstration which includes general service categories and the specific services included therein.

- Description of the amount, duration and scope of services for which each demonstration group will be eligible. Describe any interface with services provided through the State's Older American Act funds, Community Rehabilitation and Treatment (CRT), PACE Vermont, grant or State-only funds.
- Describe the services for which caregiver spouses or parents will be compensated and the mechanism for doing so. Include the criteria for determining who would receive services from caregiver spouses or parents.
- Descriptions of the person-centered planning process used in the developing of the plan of care and the individual budget; methodology for establishing the budget for plans of care; how purchasing plans are developed; procedures and mechanisms to be used to review and adjust payments for plans of care; services which will be cashed out; and, procedures for amending the description of services.

**m. Quality.** Description of an overall quality assurance monitoring plan that includes but is not limited to the following:

- quality indicators to be employed to monitor service delivery under the demonstration and the system to be put in place so that feedback from quality monitoring will be incorporated into the program;
- roles and responsibilities of agencies charged with implementing the quality assurance monitoring plan;
- the mechanisms the State will utilize to assure that the care needs of vulnerable populations participating in this demonstration (i.e., the elderly and disabled) are satisfied, and that funds provided to these beneficiaries are used appropriately;
- the system the State will operate by which it receives, reviews and acts upon critical events or incidents and communicates with licensing and surveying entities, with a description of the critical events or incidents;
- supervision of case management staff related to monitoring participant health and welfare;
- quality monitoring surveys to be conducted, and the monitoring and corrective action plans to be triggered by the surveys;
- plans to report survey results, service utilization, and general quality assurance findings to CMS as part of the quarterly and annual reports;
- procedures for assuring quality of care and participant safeguards;
- procedures for insuring against duplication of payment between the demonstration; fee for service; Home and Community-Based Services waiver programs; the Vermont Health Access Plan 1115 Demonstration; PACE Vermont, Older Americans Act Programs; grant programs; including fraud control provisions and monitoring;
- description of the State's Utilization Review (UR) process – nursing homes or other designated entity – to ensure objectivity/control of conflict of interest; and,
- plans for monitoring the administering of the Independent Living Assessment and procedures for addressing inconsistencies in administration, should these occur.

**n. Self-Directed Supports: Education, Counseling, Fiscal Intermediary and Support Services.** Descriptions of the following topics:

- the State's relationships and arrangements with organizations providing enrollment/assessment, counseling, training, and fiscal/employer agent services;
- the procurement mechanism, standards, scope of work and payment process for the fiscal/employer agent;
- procedures for ensuring sufficient availability of fiscal/employer agent services for participants who do not pass the mandatory test on employer responsibilities;
- procedures for mandatory testing of participants related to fiscal and legal responsibilities and training opportunities and support services available for participants of the demonstration who require assistance with their fiscal and legal responsibilities; and,
- the procedures that will govern how criminal background checks will be conducted on potential providers and how participants will be informed of the results of the criminal background checks.

**o. Participant Protections for Self-Direction:** A description of the State procedures and processes to assure that participant protections are in place. The description will include the following:

- procedures to assure that families have the requisite information and/or tools to direct and manage their care, including but not limited to employer agent services such as training in managing the caregivers, assistance in locating caregivers, as well as completing and submitting paperwork associated with billing, payment and taxation;
- provisions for emergency back up and emergency response capability in the event those providers of services and supports essential to the individual's health and welfare are not available. While emergencies are defined and planned for on an individual basis, the State also has system procedures in place;
- procedures for how the State will work with individuals in the Cash and Counseling option who expend their individualized budget in advance of the re-determination date to assure that services needed to avoid out-of-home placement and the continuation of the health and welfare of the individual are available; and,
- procedures for how decisions will be made regarding unexpended resources at the time of budget re-determination for Cash and Counseling participants.

**p. Financial Incentives.** Plan for encouraging individuals to plan for their future long-term care needs via financial incentives for purchasing long-term care insurance. Description of the activities and timeline for accomplishing this objective.

**q. Evaluation Design.** A description of the State's evaluation design and a timeframe for implementing the design. The description will include the following (Attachment D provides an Evaluation Framework for submitting the Evaluation Design):

- discussion of the demonstration hypotheses that will be tested;
- outcome measures that will be included to evaluate the impact of the demonstration;
- financial impact data, including the number of people affected, the dollar value of services and other pertinent data.

- description of data to be utilized;
- description of methods of data collection;
- how the effects of the demonstration will be isolated from those of other initiatives occurring in the State;
- any other information pertinent to the State's evaluative or formative research via the demonstration operations; and
- plans to include interim evaluation findings in the quarterly and annual progress reports.



## **ATTACHMENT A**

### **GENERAL FINANCIAL REQUIREMENTS**

- 1.** The State will provide quarterly expenditure reports using the Form CMS-64 to report total expenditures for services provided under the Medicaid program, including those provided through the demonstration under section 1115 authority. This project is approved for expenditures applicable to services rendered during the demonstration period. The CMS will provide FFP for allowable demonstration expenditures only so long as they do not exceed the pre-defined limits as specified in Attachment B (Monitoring Budget Neutrality for the demonstration).
- 2.a.** In order to track expenditures under this demonstration, the State will report demonstration expenditures through the Medicaid and State Children's Health Insurance Program Budget and Expenditure System (MBES/CBES), following routine CMS-64 reporting instructions outlined in Section 2500 of the State Medicaid Manual. Applicable rebates and expenditures subject to the budget neutrality cap will be reported on separate Forms CMS-64.9 WAIVER and/or 64.9P WAIVER, identified by the demonstration project number assigned by CMS (including the project number extension, which indicates the demonstration year in which services were rendered or for which payments were made). For monitoring purposes, cost settlements will be recorded on Line 10.b, in lieu of Lines 9 or 10c. For any other cost settlements (i.e., those not attributable to this demonstration), the adjustments should be reported on lines 9 or 10.c, as instructed in the State Medicaid manual. The term, "expenditures subject to the budget neutrality cap," is defined below in item 2.c.
- b.** For each demonstration year five separate Form CMS-64.9 WAIVER and/or 64.9P WAIVER reports will be submitted reporting expenditures subject to the budget neutrality cap. On the first form report the expenditures for the Highest Need Group. On the second form report the expenditures for the High Need Group. On the third form, report expenditures for the Moderate Need Group. On the fourth form, report expenditures for demonstration eligibles also receiving CRT services under the VHAP 1115. On the fifth form, report Medicaid expenditures for PACE participants. All expenditures subject to the budget neutrality ceiling for demonstration eligibles must be reported. The sum of the expenditures, for all demonstration years reported during the quarter, will represent the expenditures subject to the budget neutrality cap (as defined in 2. c.). The Long-Term Care Plan Medicaid eligibility groups (MEGs), for reporting purposes, include the following names: Highest Need Group, High Need Group, Moderate Need Group, CRT Group, and PACE Group.
- c.** For the purpose of this section, the term "expenditures subject to the budget neutrality cap" will include all Medicaid expenditures on behalf of demonstration eligibles. CRT for participants with severe, persistent mental illness would continue to be included in the Vermont Health Access Plan 1115 demonstration and excluded from the Long-Term Care Plan 1115 demonstration. Services for the expansion group include case management, homemaker, adult day services and additional services as identified over the lifetime of the demonstration.

All expenditures that are subject to the budget neutrality cap are considered demonstration expenditures and will be reported on Form CMS 64.9 WAIVER and/or 64.9P WAIVER. The demonstration eligibles include the aged (age 65 years and older) and adults with physical disabilities (age 18 and through 64) who are in need of long-term care services (nursing facility, home and community-based services, PACE) or at risk of requiring nursing facility services. Services subject to budget neutrality would include State Plan services, home and community-based services, including Enhanced Residential Care, as currently defined under Vermont's 1915(c) programs, PACE and nursing facility services.

- d. Administrative costs will not be included in the budget neutrality limit, but the State must separately track and report additional administrative costs that are directly attributable to the demonstration, such as additional staff, equipment for those staff, space costs associated with those staff and contracts for technical assistance. All administrative costs will be identified on the Forms CMS-64.10 WAIVER and/or 64.10P WAIVER.
  - e. All claims for expenditures subject to the budget neutrality cap (including any cost settlements) will be made within 2 years after the calendar quarter in which the State made the expenditures. Furthermore, all claims for services during the demonstration period (including any cost settlements) will be made within 2 years after the conclusion or termination of the demonstration. During the latter 2 year period, the State will continue to identify separately net expenditures related to dates of service during the operation of the 1115 demonstration on the Form CMS-64 in order to properly account for these expenditures in determining budget neutrality.
  - f. The procedures related to this reporting process, report contents, and frequency will be discussed by the State in the Operational Protocol, to be included in the description in item 19.b. of Section V of this document.
- 3.a.** For the purpose of monitoring the budget neutrality expenditure cap described in Attachment B, the State must provide to CMS on a quarterly basis the actual number of eligible member/months for the demonstration eligibles as defined below. This information should be provided to CMS in conjunction with the quarterly progress report referred to in number 10 of Section III. If a quarter overlaps the end of one demonstration year (DY) and the beginning of another, member/months pertaining to the first DY must be distinguished from those pertaining to the second. (Demonstration years are defined as the years beginning on the first day of the demonstration, or the anniversary of that day.) Procedures for reporting eligible member/months must be defined in the Operational Protocol (see Section V.).
- b. The term, "eligible member/months" refers to the number of months in which persons are eligible to receive demonstration or State Plan services. For example, a person who is eligible for 3 months contributes 3 eligible member/months to the total. Two individuals who are eligible for 2 months each contribute 2 eligible member months to the total, for a total of 4 eligible member/months.

- c. The term “demonstration eligibles” refers to adults (age 65 years and older) and adults with physical disabilities (age 18 and older) who meet criteria for long-term care services in the community or in a nursing facility or who are at-risk of needing long-term care services. Specifically, demonstration eligibles include 1) participants in the 1915(c) Home and Community-Based Services Program for the Elderly and Disabled and the 1915(c) Enhanced Residential Care Program; 2) participants receiving long-term care services in a nursing facility; 3) participants meeting the demonstration’s financial eligibility and long-term care clinical eligibility criteria for the Highest, High, and Moderate Need Groups; 4) participants meeting demonstration financial and clinical eligibility criteria and receiving CRT services under the VHAP 1115; and, 5) PACE participants.
- 4. The standard Medicaid funding process will be used during the demonstration. Vermont must estimate matchable Medicaid expenditures on the quarterly Form CMS-37. In addition, the estimate of matchable demonstration expenditures (total computable/Federal share) subject to the budget neutrality cap must be separately reported by quarter for each Federal fiscal year on the Form CMS-37.12 for both the Medical Assistance Program (MAP) and Administrative Costs (ADM). As a supplement to the Form CMS-37, the State will provide updated estimates of expenditures subject to the budget neutrality cap as defined in 2.c. of this Attachment. The CMS will make Federal funds available based upon the State's estimate, as approved by CMS. Within 30 days after the end of each quarter, the State will submit the Form CMS-64 Quarterly Medicaid Expenditure Report, showing Medicaid expenditures made in the quarter just ended. The CMS will reconcile expenditures reported on the Form CMS-64 with Federal funding previously made available to the State, and include the reconciling adjustment in the finalization of the grant award to the State.
- 5. The CMS will provide FFP at the applicable Federal matching rate for the following, subject to the limits described in Attachment B:
  - a. Administrative costs, including those associated with the administration of the demonstration.
  - b. Net expenditures and prior period adjustments of the Medicaid program that are paid in accordance with the approved State Plan.
  - c. Net medical assistance expenditures made under Section 1115 demonstration authority, including those made in conjunction with the demonstration.
- 6. The State will certify State/local monies used as matching funds for the demonstration and will further certify that such funds will not be used as matching funds for any other Federal grant or contract, except as permitted by Federal law.

## **ATTACHMENT B**

### **MONITORING BUDGET NEUTRALITY**

The following describes the method by which budget neutrality will be assured under the demonstration. The demonstration will be subject to a limit on the amount of Federal Title XIX funding that the State may receive on selected Medicaid expenditures during the demonstration period. The Special Terms and Conditions specify the aggregate financial cap on the amount of Federal Title XIX funding that the State may receive on expenditures subject to the budget neutrality cap as defined in 2.c. of Attachment A of this document. If the demonstration is delayed beyond September 1, 2005, the financial cap will be adjusted using the same trending as used to calculate the figure below. The budget neutrality cap will be for the Federal share of the total computable cost of \$1,235,978,987 for the 5-year demonstration. The cap places the State at risk for enrollment and for Per Participant Per Month (PPPM) cost trends.

#### **Impermissible DSH, Taxes or Donations**

The CMS reserves the right to adjust the budget neutrality ceiling to be consistent with enforcement of impermissible provider payments, health care related taxes, new Federal statutes, or policy interpretations implemented through letters, memoranda or regulations. The CMS reserves the right to make adjustments to the budget neutrality cap if any health care related tax that was in effect during the base year, or provider related donation that occurred during the base year, is determined by CMS to be in violation of the provider donation and health care related tax provisions of 1903(w) of the Social Security Act. Adjustments to annual budget targets will reflect the phase out of impermissible provider payments by law or regulation, where applicable.

#### **Changes Resulting from Implementation of the Medicare Modernization Act (MMA)**

The State and CMS will develop a modified budget limit to respond to the implementation of the MMA. The modified budget limit would be effective upon enforcement of the law, regulation, or policy statement.

#### **How the Limit will be Applied**

The limit calculated above will apply to actual expenditures for demonstration, as reported by the State under Attachment A. If at the end of the demonstration period the budget neutrality provision has been exceeded, the excess Federal funds will be returned to CMS. There will be no new limit placed on the FFP that the State can claim for expenditures for recipients and program categories not listed. If the demonstration is terminated prior to the 5-year period, the budget neutrality test will be based on the time period through the termination date.

**Expenditure Review**

The CMS shall enforce budget neutrality over the life of the demonstration, rather than on an annual basis. However, no later than 6 months after the end of each demonstration year, CMS will calculate an annual expenditure target for the completed year. This amount will be compared with the actual FFP claimed by the State under budget neutrality. Using the schedule below as a guide, if the State exceeds the cumulative target, they must submit a corrective action plan to CMS for approval. The State will subsequently implement the approved program.

| <u>Year</u> | <u>Cumulative Target</u><br>(Total Computable<br>Cost) | <u>Cumulative Target</u><br><u>Definition</u>         | <u>Percentage</u> |
|-------------|--|---|-------------------|
| Year 1      | \$214,281,572  | Year 1 budget<br>estimate plus                        | 8 percent         |
| Year 2      | \$431,229,252  | Years 1 and 2<br>combined budget<br>estimate plus     | 3 percent         |
| Year 3      | \$669,819,392  | Years 1 through 3<br>combined budget<br>estimate plus | 1 percent         |
| Year 4      | \$939,308,680  | Years 1 through 4<br>combined budget<br>estimate plus | 0.5 percent       |
| Year 5      | \$1,235,978,987  | Years 1 through 5<br>combined budget<br>estimate plus | 0 percent         |

## ATTACHMENT C

### SUMMARY SCHEDULE OF REPORTING ITEMS

| Item                                     | Timeframe for Item   | Frequency of Item  |
|--|--|--|
| <b>Monthly Conference Calls</b>          | Prior to demonstration implementation and Post-implementation.   | Monthly progress calls with CMS and the State.   |
| <b>Operational Protocol</b>              | Due to CMS 30 days after program approval, CMS comments 30 days after receipt, and State completion/CMS approval thereafter. | One Operational Protocol. Changes to the Operational Protocol must be submitted and approved by CMS.   |
| <b>Quarterly/Annual Progress Reports</b> | Due to CMS 60 days after the end of a quarter.   | One quarterly report per Federal Fiscal Year quarter during operation of the demonstration; the report for the fourth quarter of each year will serve as the annual progress report. |
| <b>Final Report</b>                      | Due to CMS 180 days after the end of the demonstration.  | One final report.  |

## **ATTACHMENT D**

### **EVALUATION FRAMEWORK**

Section 1115 demonstrations are valued for information on health services, health services delivery, health care delivery for uninsured populations and other innovations that would not otherwise be part of Medicaid programs. The CMS encourages States with demonstration programs to conduct or arrange for evaluations of the design, implementation and/or outcomes of their demonstrations. The CMS also conducts evaluation activities.

The CMS believes that all parties to demonstrations; States, Federal government, and individuals benefit from State conducted self-evaluations that include process and case-study evaluations – these would include, but not be limited to: 1) studies that document the design, development, implementation and operational features of the demonstration, and 2) studies that document participant and applicant experiences that are gathered through surveys, quality assurance activities, grievances and appeals, and in depth investigations of groups of participants and applicants and/or providers (focus groups, interviews, other). These are generally studies of short-term experiences and they provide value for quality assurance and quality improvements programs (QA/QI) that are part of quality assurance activities and/or demonstration refinements and enhancements.

Benefit also derives from studies of intermediate and longer-term investigations of the impact of the demonstration on health outcomes, self-assessments of health status and/or quality of life. Studies such as these contribute to State and Federal formation and refinements of policies, statutes and regulations.

States are encouraged to conduct short-term studies that are useful for QA/QI that contribute to operating quality demonstration programs. Should states have resources available after conducting these studies, they are encouraged to conduct outcome studies.

The following are criteria and content areas to be considered for inclusion in Evaluation Design Reports.

- Evaluation Plan Development - Describe how plan was or will be developed and maintained:
  - Use of experts through technical contracts or advisory bodies;
  - Use of techniques for determining interest and concerns of stakeholders (funding entities, administrators, providers, clients);
  - Selection of existing indicators or development of innovative indicators;
  - Types of studies to be included, such as Process Evaluations, Case-Studies and Outcome investigations;
  - Types of data collection and tools that will be used – for instance participant and provider surveys and focus groups; collection of health service utilization; employment data; or, participant purchases of other sources of health care coverage; and whether the data collection instruments will be existing or newly developed tools;

- Incorporation of results through QA/QI activities into improving health service delivery; and
  - Plans for implementation and consideration of ongoing refinement to the evaluation plan.
- Study Questions – Discuss:
  - Hypothesis or research questions to be investigated;
  - Goals, such as:
    - Increase Access
    - Cost Effectiveness
    - Improve Care Coordination
    - Increase Family Satisfaction and Stability
  - Outcome Measures, Indicators, and Data Sources
- Control Group and/or Sample Selection Discussion:
  - The type of research design(s) to be included -
    - Pre/Post Methodology
    - Quasi-Experimental
    - Experimental
  - Plans for Base-line Measures and Documentation – time period, outcome measures, indicators and data sources that were used or will be used
- Data Collection Methods – Discuss the use of data sources such as:
  - Enrollment and outreach records;
  - Medicaid claims data;
  - Vital statistics data;
  - Provide record reviews;
  - School record reviews; and
  - Existing or custom surveys
- Relationship of Evaluation to Quality Assessment and Quality Improvement Activities– Discuss:
  - How evaluation activities and findings are shared with program designers, administrators, providers, outreach workers, etc., in order to refine or redesign operations;
  - How findings will be incorporated into outreach, enrollment and education activities;
  - How findings will be incorporated into provider relations such as provider standards, retention, recruitment and education; and
  - How findings will be incorporated into grievance and appeal proceedings.
- Discuss additional points as merited by interest of the State and/or relevance to nuances of the demonstration intervention.